IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1978

No. 78-1237

CROATAN BOOKS, INC.,
                    Petitioner,

-vs-

COMMONWEALTH OF VIRGINIA,
                    Respondent

RESPONSE TO PETITION FOR
A WRIT OF CERTIORARI

PATRICK T. GRASSY
Assistant Commonwealth's
Attorney
STEVEN A. MERRIL
Senior Assistant
Commonwealth's Attorney
4000 Chain Bridge Road
Fairfax, Virginia 22030
Attorneys for Respondent
COMMONWEALTH OF VIRGINIA

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1978

No. 78-1237

CROATAN BOOKS, INC.,
                    Petitioner,

-vs-

COMMONWEALTH OF VIRGINIA,
                    Respondent

RESPONSE TO PETITION FOR A
    WRIT OF CERTIORARI

To the Honorable, the Chief Justice
and Associate Justices of the Supreme Court
of the United States.

The Commonwealth of Virginia, the
Respondent, prays that the Petition for
Writ of Certiorari be denied.

ARGUMENT

     Arguments will be presented
to questions presented by the Petitioner
in the same order which these questions
appear in the Petition for Writ.

     1.   The Commonwealth submits that
in obscenity prosecution, jury's can be
properly instructed to apply "Community
Standards" other question of obscenity
without the particular community being
specified. Jenkins v. Georgia, 418
U.S. 153 (1974)

     2.   The interpretation of
Constitutional standards is not a
function of a jury; in this case, the trial
Court's proscribing argument to the jury
concerning First Amendment protection of
motion picture films was correct.

3.   The Commonwealth submits
that the Virginia Code Section of
which the Petitioner was prosecuted
is not unconstitutional. <u>Price vs.</u>
<u>Commonwealth,</u> 214 Va. 490. Petition
for Writ of Certiorari denied,
419 U.S. 902, 42 L.Ed.2d 148.

CONCLUSION

For the foregoing reasons,
it is respectfully requested that
the Petition for Writ of Certiorari
be denied.

Respectfully submitted,

PATRICK T. GRASSY
Assistant Commonwealth's
Attorney
STEVEN A. MERRIL
Senior Assistant
Commonwealth's Attorney
4000 Chain Bridge Road
Fairfax, Virginia 22030
COMMONWEALTH OF VIRGINIA
Counsel for Respondent

see 8783721